

# REPORT OF THE COMMITTEE ON TRANSPORTATION

## Voting Members:

Brandon J.C. Elefante, Chair; Ron Menor, Vice-Chair;  
Ikaika Anderson, Michael Formby, Joey Manahan, Kymberly Marcos Pine

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Committee Meeting Held  
April 25, 2019

Honorable Ann H. Kobayashi  
Interim Council Chair, City Council  
City and County of Honolulu

Madame Chair:

Your Committee on Transportation, which considered Bill 8 (2019), CD1 entitled:

"A BILL FOR AN ORDINANCE RELATING TO PARADES AND ACTIVITIES ON  
STREETS,"

which passed second reading and was the subject of a public hearing at the  
April 17, 2019 Council meeting, reports as follows:

The purpose of Bill 8 (2019), CD1 is to limit the number of parades and activities  
on certain streets and to ensure that parades and activities that require the exclusive  
use of streets serve a public purpose.

Wes Frysztacki, the Director of the Department of Transportation Services,  
testified in support of the Bill, and suggested that the parade/activity limits should be  
considered on an island-wide basis. In response to a question from the Committee  
Chair, the Director indicated that he will work with Corporation Counsel for guidance in  
determining criteria by which non-First Amendment parades or activities qualify as  
having a private benefit that is incidental to a benefit to the community as a whole for  
the purposes of determining whether the parade or activity serves a public purpose.

Your Committee received testimony in support of the Bill from the Waikiki  
Improvement Association and from one individual. Two individuals provided comments  
on the Bill.

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**CITY COUNCIL**  
CITY AND COUNTY OF HONOLULU  
HONOLULU, HAWAII

ADOPTED ON MAY 8 2019

COMMITTEE REPORT NO. 140

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Page 2

Written testimony in support was received from the Waikiki Improvement Association and one individual. Written testimony in opposition was received from one individual.

Your Committee considered and approved the posted proposed CD2 version, which does the following:

- A. In SECTION 1 of the bill, adds a discussion on the unique impact that parades and activities, and the resulting street closures, have in the Waikiki special district.
- B. Amends the title of ROH Section 15-24.20 to read "Parades and other activities" to make clear that the section applies to other forms of activities.
- C. Clarifies the language in and the proposed amendments to ROH Section 15-24.20(d)(1) to read as follows:

"Public Purpose. The director shall determine whether the parade or the activity serves a public purpose. For purposes of this section, a First Amendment parade is deemed to serve a public purpose. The director may consider that a non-First Amendment parade or activity is for a public purpose, so long as any private benefit arising out of the parade or the activity is incidental to the benefit arising out of the parade or activity to the community as a whole."

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## CITY COUNCIL

CITY AND COUNTY OF HONOLULU  
HONOLULU, HAWAII

ADOPTED ON **MAY 8 2019**

COMMITTEE REPORT NO. **140**

# REPORT OF THE COMMITTEE ON TRANSPORTATION

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April 25, 2019  
Page 3

- D. In ROH Section 15-24.20(d)(3)(B) ("Waikiki Parades and Other Activities"):
1. Provides that the DTS director may approve up to 12 permits per year for parades or activities in the Waikiki special district other than First Amendment or Waikiki legacy parades or activities in addition to parades.
  2. Adds a provision prohibiting non-First Amendment parades or activities in the Waikiki special district on days on which a general election is held. Also authorizes the DTS Director to designate, by rule, up to ten additional dates during the calendar year as unavailable for non-First Amendment parades or activities in the Waikiki special district if the Director finds that those dates historically have experienced high traffic volumes in Waikiki.
- E. In proposed new ROH Section 15-24.20(e)(3), limits the post-parade or post-activity documentation requirement to persons who obtained a permit for a parade or activity in the Waikiki special district, other than a First Amendment parade or activity or a parade or activity designated as a Waikiki legacy parade or activity as of December 31, 2019. Further provides that failure to comply with the public purpose requirement will not disqualify a person from receiving a permit for a First Amendment parade or activity during the following calendar year.
- F. Makes miscellaneous technical and nonsubstantive amendments.

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Committee Meeting Held  
April 25, 2019  
Page 4

Your Committee on Transportation is in accord with the intent and purpose of Bill 8 (2019), CD2, as amended herein, and recommends that it pass third reading in the form attached hereto as Bill 8 (2019), CD2. (Ayes: Elefante, Anderson, Formby, Manahan, Pine – 5; Noes: None; Excused: Menor – 1.)

Respectfully submitted,

  
Committee Chair

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**CITY COUNCIL**  
CITY AND COUNTY OF HONOLULU  
HONOLULU, HAWAII

ADOPTED ON MAY 8 2019

COMMITTEE REPORT NO. 140



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**A BILL FOR AN ORDINANCE**

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RELATING TO PARADES AND ACTIVITIES ON STREETS.

BE IT ORDAINED by the People of the City and County of Honolulu:

**SECTION 1. Purpose.** The purpose of this ordinance is to limit the number of parades and activities on certain streets and to ensure that parades and activities that require the exclusive use of streets serve a public purpose. This ordinance also recognizes the unique impact that parades and activities have in the Waikiki special district. Waikiki is an area densely packed with residents and businesses and is the economic engine of the City and County of Honolulu and the State of Hawaii. Closure of Kalakaua Avenue, a major six-lane thoroughfare through Waikiki, has a major impact on traffic flow in and around the district and causes significant disruptions to Waikiki residents and businesses. These disruptions are even more severe around certain holiday periods—such as New Year's Eve, Valentine's Day, and Mother's Day—which see significantly increased traffic volumes into Waikiki. In addition, traffic closures in Waikiki on general election days affect public access to polling places.

**SECTION 2.** Section 15-24.20, Revised Ordinances of Honolulu 1990 ("Parades."), is amended to read as follows:

**"Sec. 15-24.20 Parades[.] and other activities.**

- (a) **Definitions.** The following terms, as used in this section, have the meaning ascribed thereto as provided herein:

"Activity" means the occupation, use or participation in any endeavor other than a parade that requires the exclusive use of streets as defined in Section 15-2.23.

"Agency" means any federal, state or city agency whose review of a permit application the director determines or finds to be necessary for the director to issue such permit.

"Chief of police" means the chief of police of the city, or the chief's authorized subordinate.

"Department" means the department of transportation services.

"Director" means the director of the department of transportation services, or the director's authorized subordinate.



## **A BILL FOR AN ORDINANCE**

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"Expressive activity" means speech or conduct, the principal object of which is the expression, dissemination, or communication by verbal, visual, literary, or auditory means of political, religious, philosophical, or ideological opinions, views, or ideas and for which no fee is charged or required as a condition of participation in or attendance at such activity. Expressive activity generally would not include sports events such as marathons, fundraising events, beauty contests, commercial events, cultural celebrations or other events the principal purpose of which is entertainment.

"First Amendment parade or activity" means a parade or activity that constitutes an expressive activity in which individuals may participate without charge.

"Parade" means as defined in Section 15-2.15.

"Public safety" means the safety or protection of any motorists, pedestrians, occupants of vehicles, participants, spectators and police officers assigned to a parade or activity, or the protection of any real or personal property.

"Street" means as defined in Section 15-2.23.

"Street block" means as defined in Section 15-2.23.

"Waikiki legacy parades and activities" means any parade or activity that has been held in the Waikiki special district annually for at least 15 consecutive calendar years. In order to maintain legacy status, the parade or activity must be held every calendar year after attaining legacy status. Failure to hold the parade or activity in every calendar year after attaining legacy status results in the loss of legacy status.

"Waikiki special district" means the district described in Section 21-9.80-2, including any precinct thereof established pursuant to Section 21-3.20.

- (b) **Permit Required.** No person shall conduct a parade or activity on streets or highways, except for funeral processions, parades, marches or processions by members of the United States Armed Forces, State of Hawaii Armed Forces and city police and fire departments, or undertake any activity on streets or highways without first obtaining a permit~~[-]~~ from the director pursuant to this section.



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**A BILL FOR AN ORDINANCE**

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(c) Application.

- (1) Any person desiring a permit shall file an application on forms provided by the director with the department. Information to be submitted on application forms must include, but is not limited to:
  - (A) The date of the parade or activity;
  - (B) The starting time and estimated duration of the parade or activity;
  - (C) The route of the parade or activity; ~~and~~
  - (D) Whether the parade or activity is a First Amendment parade or activity~~[-]; and~~
  - (E) For a non-First Amendment parade or activity, the public purpose to be served.

(d) Conditions to Be Met Prior to Issuance of Permit.

- (1) Public Purpose. The director shall determine whether the parade or the activity serves a public purpose. For purposes of this section, a First Amendment parade is deemed to serve a public purpose. The director may consider that ~~[the]~~ a non-First Amendment parade or ~~[the]~~ activity is for a public purpose, so long as any private benefit arising out of the parade or the activity is incidental to the ~~[public purpose-]~~ benefit arising out of the parade or activity to the community as a whole. ~~[For purposes of this section, a First Amendment parade is deemed to serve a public purpose.]~~
- (2) First Amendment Parades or Activities. Upon receipt of an application for a First Amendment parade or activity no later than five working days prior to the date of the event, the director shall immediately transmit a copy of the application to the corporation counsel, who shall make a recommendation to the director regarding whether an application meets the requirements of a parade or activity held for the purpose of participants expressing views or engaging in other activities protected by the First Amendment of the United States Constitution. The director shall make the determination to grant or deny the application and shall notify the applicant of the director's decision. The application may be denied if inadequate information is provided to determine whether the parade is a



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**A BILL FOR AN ORDINANCE**

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First Amendment parade or activity. If the application for a First Amendment parade or activity is not denied within three working days from the date the application is submitted, the application is deemed granted and a permit will be issued. An application for a First Amendment parade or activity:

- (A) Filed less than five working days prior to the date of the event, or
  - (B) That conflicts with a permit application that has already been received and/or a permit that has already been issued by the department, will be denied.
- (3) Other Parades and Activities. Applications for parades and activities that are not First Amendment parades are subject to the requirements of this subdivision.
- (A) Non-Waikiki Parades and Other Activities. An application for a parade or activity, other than one subject to paragraph (B), must be filed with the department in accordance with deadlines set by the director.
  - (B) Waikiki Parades and Other Activities. The application for a parade or activity subject to this paragraph must be filed in accordance with deadlines set by the director. The director ~~shall~~ may approve, upon the director's determination that all other conditions have been or will be met, not more than ~~15~~ 12 permits per year for a parade or activity that:
    - (i) Has a route, in part or in whole, through the Waikiki special district;
    - (ii) Would result in the closure of one or more streets for a total distance of four street blocks or more within the Waikiki special district; and
    - (iii) Has an estimated duration of two or more hours.

Waikiki legacy parades and activities will automatically receive a permit if all other permit conditions and requirements are met. If a parade or activity qualifies as a Waikiki legacy parade or activity, it must be held every calendar year in the Waikiki special district





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**A BILL FOR AN ORDINANCE**

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to maintain its status as a Waikiki legacy parade or activity. Waikiki legacy parades and activities are not counted towards the permit issuance limit for parades or activities in the Waikiki special district. For parades or activities for which legacy status is being sought, it is the responsibility of the person applying for the permit to demonstrate to the city that the parade or activity was held annually in the Waikiki special district for 15 consecutive calendar years and has been held every calendar year thereafter.

Notwithstanding any other provision of this paragraph, no permits for non-First Amendment parades or activities in the Waikiki special district may be issued for days on which a general election is held. In addition, the director may, by rules adopted pursuant to HRS Chapter 91, designate other dates during the calendar year as unavailable for non-First Amendment parades or activities in the Waikiki special district if the director finds that those dates historically have experienced high traffic volumes in Waikiki; provided that no more than ten dates may be so designated.

- (C) Review by Chief of Police. Upon the filing of an application for a non-First Amendment parade or activity, the director shall transmit a copy of the application to the chief of police for the ~~[chiefs]~~ chief's review, comments, and recommendations, and to any other agency if the director determines a particular agency's review is necessary. The chief of police or any agency to which an application has been transmitted shall return the application with comments and recommendations, if any, to the director within five working days after receipt of the copy of the application.
- (4) The director may impose any conditions prior to the issuance of the permit that will provide for public safety; minimize traffic congestion or hazards; and permit the passage of authorized emergency vehicles. Any conditions imposed by the director to be met prior to the issuance of the permit must be reasonable and necessary and not unduly restrict the ability of a participant in any parade or activity to express views or engage in other activities protected by the First Amendment of the United States Constitution.
- (e) Conditions to Be Met After Issuance of Permit.



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**A BILL FOR AN ORDINANCE**

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- (1) Any parade or activity for which a permit has been issued must comply with any rules adopted pursuant to HRS Chapter 91 that may apply to parades or activities using streets.
  - (2) The director may impose any conditions that are required to be met after the issuance of the permit that will provide for public safety; minimize traffic congestion or hazards; and permit the passage of authorized emergency vehicles. Any written conditions imposed by the director to be met after issuance of the permit shall be reasonable and necessary and not unduly restrict the ability of a participant in any parade or activity to express views or engage in other activities protected by the First Amendment of the United States Constitution.
  - (3) Within 30 days after the conclusion of a parade or activity in the Waikiki special district, other than a First Amendment parade or activity or a parade or activity designated as a Waikiki legacy parade or activity as of December 31, 2019, the person who obtained the permit shall file documentation with the director evidencing compliance with the public purpose requirement set forth in subsection (d)(1). If the director, upon review of the post-parade or post-activity documentation, determines that the parade or activity failed to comply the public purpose requirement set forth in subsection (d)(1), the person who obtained the permit will be ineligible to receive a permit for a parade or activity in the Waikiki special district, other than a permit for a First Amendment parade or activity, during the following calendar year.
- (f) Denial or Revocation of Permit.
- (1) Denial or Revocation of Permit. The director is authorized and empowered to deny any permit application if the parade or activity does not conform to any provision of this chapter, the Statewide Traffic Code and other state laws, the rules adopted by the state director of transportation or the director pursuant to HRS Chapter 91, any conditions imposed by this section, or any other written conditions imposed by the director under subsection (d)(4).
  - (2) Chief of Police to Revoke Permit or Terminate Parade or Activity. The chief of police is authorized to revoke any permit if the chief finds that, at the site where a permitted parade or activity is to commence, and prior to the actual commencement of such parade or activity, any written conditions imposed by the director have not been met. The director is



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**A BILL FOR AN ORDINANCE**

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also authorized to terminate any parade or activity in progress if the director finds that public safety is endangered, or any written conditions to be observed during a parade or activity by the participants imposed by the director under subsection (e)(2) have been breached.

- (3) Before the director may deny an application for a permit under subdivision (1), the director may conduct a hearing pursuant to rules adopted by the director for such hearing. An applicant for a permit under subsection (d)(2) whose application has been denied and a permittee whose permit has been revoked under the conditions set forth in subdivision (2) may pursue any and all remedies as provided by law, since there will be no time to issue a notice and conduct a hearing as prescribed in HRS Chapter 91.
- (4) Applicants for Waikiki parades and activities as provided in subsection (d)(3)(B) denied a permit solely due to the limitation on permits for Waikiki parades and activities, as established by this section and as may be implemented by rules, may apply for a waiver as follows:
  - (A) The applicant shall submit an application for a waiver to the mayor's office, on forms provided by the director.
  - (B) The applicant shall attach to the waiver application a copy of the permit application.
  - (C) The waiver application must be submitted no later than 60 calendar days prior to the date of the parade or activity.
  - (D) The parade or activity must be on an existing route.
  - (E) Except for the limitation on permits for Waikiki parades, the parade or activity must satisfy all permit conditions or requirements.
  - (F) The mayor may grant a waiver if the mayor finds that the parade or activity meets any one of the following criteria:
    - (i) The parade or activity would be of economic benefit to the city, considering: the revenue expected to be generated for businesses in the city; the public facilities to be used by organizers and participants in the parade or activity; the number of visitors the parade or activity is expected to bring



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**A BILL FOR AN ORDINANCE**

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to the city; whether the event would generate media exposure for the city that could result in further economic benefits; and any other factors or information that the mayor may reasonably determine to be relevant;

- (ii) The parade or activity would be culturally or historically significant;
- (iii) The parade or activity would recognize an outstanding achievement or significant accomplishment; or
- (iv) The parade or activity would foster community spirit, pride, identity, or well-being, would benefit community organizations or causes, or would result in some other identifiable community benefit.

The applicant shall identify the criteria that apply to its parade or activity, and shall explain how the parade or activity meets the identified criteria.

- (G) The mayor [~~shall be authorized to~~] may grant no more than ~~[40]~~ six waivers for parades and activities in the Waikiki special district per calendar year. However, the actual number of waivers for parades and activities in the Waikiki special district per calendar year will vary depending on the number of Waikiki legacy parades and activities. For every Waikiki legacy parade and activity over 12 in number per calendar year, the number of available waivers in that calendar year will decrease proportionately. There may be no more than 20 Waikiki [~~Legacy~~] legacy parades and activities per calendar year, and the number of available waivers for parades and activities in the Waikiki special district may not be less than two per calendar year."

SECTION 3. Ordinance material to be repealed is bracketed and stricken. New material is underscored. When revising, compiling, or printing this ordinance for inclusion in the Revised Ordinances of Honolulu, the Revisor of Ordinances need not include the brackets, the material that has been bracketed and stricken, or the underscoring.



**CITY COUNCIL**  
CITY AND COUNTY OF HONOLULU  
HONOLULU, HAWAII

ORDINANCE \_\_\_\_\_

BILL 8 (2019), CD2

**A BILL FOR AN ORDINANCE**

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SECTION 4. This ordinance takes effect upon approval.

INTRODUCED BY:

Michael Formby

Brandon Elefante

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DATE OF INTRODUCTION:

March 1, 2019  
Honolulu, Hawaii

Councilmembers

APPROVED AS TO FORM AND LEGALITY:

\_\_\_\_\_  
Deputy Corporation Counsel

APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_.

\_\_\_\_\_  
KIRK CALDWELL, Mayor  
City and County of Honolulu